



## **Intellectual Property Constituency Comment on Projected FY17 Improvements to the ICANN Fellowship Program**

July 29, 2016

The GNSO Intellectual Property Constituency (“IPC”) appreciates this opportunity to comment on the Projected FY17 Improvements to the ICANN Fellowship Program (“Proposed Fellowship Program”). A Fellowship Application Process Review Report was prepared by ICANN’s Development and Public Responsibility Department; this report reviews, as well as proposes amendments to, ICANN’s Fellowship program to better empower current and new stakeholders to fully participate in ICANN activities in the Internet ecosystem more broadly.

The Proposed Fellowship Program provides four changes to the selection criteria. The IPC’s responses to two of the changes are provided below.

We preface our comments with some general observations.

As we understand it, the Proposed Fellowship Program has as its aim the following principal objectives:

- a) To bring in “more diverse voices in order to have more inclusive decision-making” reflective of the ICANN global community, and in doing so to extend the Fellowship program to a larger group, including those from underserved and under-represented communities (as opposed to the more limited reference to less developed regions reflected in the current fellowship program).
- b) To address the needs and concerns of the ICANN community while ensuring that the fellowship program’s core objectives are met.
- c) To pay special attention to maintaining diversity in terms of knowledge, region, gender, culture, interests, capabilities and expertise.
- d) To facilitate the development of fellows who will remain actively involved in the ICANN community and contribute back to the community by taking on leadership or volunteer roles.

We do not agree with every part of the changes proposed (as described below), but on the whole, the IPC fully supports the fellowship program and commends the process that has been undertaken to improve it.

With respect to the IPC’s specific comments, reference is made specifically to the first and fifth criteria as reflected on page four of the Proposed Fellowship Program. Before looking at the specific criteria, the IPC has an overall concern regarding how the criteria will be applied. It is unclear whether any or all of the criteria must be satisfied, whether any of the criteria are more important the relative weight given to each criterion, and the interrelationship between criteria. This lack of clarity makes it difficult to gauge whether a potential applicant is likely to be successful. It also makes it difficult to judge whether the process and the results are working as

planned. This can discourage potential applicants from applying, and hinders transparency and accountability.

**First Criterion: Applicant from underserved or underrepresented communities or regions who express financial need. Specifically, prepared applicants with reasonable knowledge who have been hindered by social, economic and environmental factors such as poverty, race, ethnicity, age, gender, physical disabilities, and factors such as income, hygiene, and absence of a usual source of care or service such as basic education, health services, and public transportation.**

This criterion is a departure from its corresponding existing one, which only considers the development status of the applicant's country/territory and not the financial/social needs of the individual. Under the amended criterion, the Selection Committee would need to take into account the exposure of the candidate to factors such as "poverty, race, ethnicity, age, gender, physical disabilities, income, hygiene, absence of a usual source of care or service such as basic education, health services, and public transportation". The introduction of such a variety of factors that need to be taken into consideration would render the task of the Selection Committee more complex and the verification of the statements made by the candidate would be practically impossible. In addition, no objective parameters have been proposed against which the factors, which are quite broad, and may differ from region to region, can be measured. This presents a hurdle both for potential fellowship applicants and for the selection process as a whole, specifically the risk that the selection process may not be fairly and equitably applied across the board.

Furthermore, and of greater concern to the IPC, candidates interested in joining ICANN's Intellectual Property Constituency would be much less likely to meet the proposed requirements set out in this criteria. The program has been far more successful in bringing in participants with interests relating to certain stakeholder groups and constituencies. A skewed program cannot provide the maximum benefit to ICANN, the stakeholder community or the fellows themselves. Ultimately, it could even be detrimental to all of those interests. Even under the present criteria, the only a very small number (and percentage) of fellows have had an interest in and experience with intellectual property issues.<sup>1</sup> This proposed criterion could worsen the situation and further limit the pool of fellows from which IPC can draw, rather than expanding it as is intended. The IPC is greatly interested in diversifying and expanding its membership, particularly with regard to underrepresented regions and also with regard to individuals who are relatively disadvantaged, regardless of their region or country. The very nature of IPC's membership criteria and potential membership pool will mean that in the majority of cases, the factors set out above will not apply (or will apply less dramatically) and this would make it difficult for viable candidates from the business sector and with experience in intellectual property issues to be selected as fellows. Although potential IPC members may often appear relatively less disadvantaged than those in some other sectors, there are significant financial hardships and disincentives to participation that

---

<sup>1</sup> The IPC membership process requires applicants to demonstrate an interest in and experience with intellectual property issues, particularly as it relates to the operation of the DNS. IPC represents the views and interests of owners of intellectual property worldwide, as well as consumers who depend on strong intellectual property protection as an essential element of consumer confidence, trust and protection. IPC members should therefore have sufficient knowledge of these issues and how they interact with the DNS in order to participate meaningfully in the IPC.

curb interest and growth in the active participants from our stakeholder community. The Fellowship Program should be nuanced enough to take this into account rather than applying a “one size fits all approach” to how well this criterion is met.

The IPC has been hopeful in seeing the Fellowship Program as a pipeline to broaden the IPC’s membership. Recent efforts by the IPC in this regard have been increasingly successful, and IPC hopes to build on these successes. The IPC is concerned that it will be unable to do so, given this criterion. As such, the IPC cautions against a program that in intent and result is likely to be more skewed than the current program and less helpful in bringing Fellows to all stakeholder communities. Indeed, we would strongly suggest that the Fellowship Program should strive to apply the overall criteria so that the program (at each meeting and in the aggregate) is balanced across stakeholder communities.

**Fifth Criterion: Well prepared Applicant lives in the same region where the ICANN meeting is being held.**

This criterion is not entirely new. The existing criteria state that “additional weight is given to eligible candidates who meet the minimum requirements of the program, and live in the region where the ICANN meeting is being held for that fellowship round.” The wording in the proposed amended criterion has the potential to discourage continuity and ongoing involvement by fellows, which is what the fellowship program tries to promote. The concern can probably be addressed and continuity promoted if the language is adjusted to indicate that same region applications are encouraged and given “additional weight,” as the current criteria provide, as opposed to stating (or appearing to state) that residency in the region of a particular ICANN meeting is a selection criterion that must be satisfied. Our overall comment regarding the lack of clarity in how the criteria will be applied is particularly applicable here.

Respectfully submitted,

Intellectual Property Constituency